REMARKS

This response is intended as a full and complete response to the final Office Action mailed December 6, 2006. In the Office Action, the Examiner notes that claims 1, 4-12, 16 and 18 are pending and rejected. Applicants note that although the Office Action Summary omits disposition of pending claims 21-24, the body of the Office Action indicates that pending claims 21-24 have been rejected. (Office Action, Pg. 4).

In view of the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

REJECTIONS

35 U.S.C. §103

Claims 1, 4-12, 16 and 18

The Examiner has rejected claims 1, 4-12, 16 and 18 under 35 U.S.C. 103(a) as being unpatentable over Herz et al. "Herz" (U.S. Patent No. 5,758,257) in view of Alexander et al. "Alexander" (U.S. Patent 6,177,931) and further in view of LaJoie et al. "LaJoie" (U.S. Patent 5,850,218). Applicants respectfully traverse the rejection.

In general, Herz teaches a system for scheduling the receipt of desired movies and other forms of data from a network which simultaneously distributes many sources of such data to many customers. In particular, Herz teaches that customer profiles are developed for each customer. The customer profiles describe the importance of certain characteristics of broadcast video programs to each customer. From the customer profiles, an agreement matrix is calculated by comparing the customer profiles to video profiles which define the characteristics of available video programs. As taught in Herz, customer profiles and agreement matrices may be updated using feedback information collected from the set top multimedia terminal. As taught in Herz, feedback information includes a record of video programs actually watched by a customer.

Herz, however, fails to teach or suggest Applicants' claim 1, as a whole. Namely, Herz fails to teach or suggest at least the limitations of "the trend data of each terminal including preference indicative information, the preference indicative information including subscriber interactions with at least one IPG page and subscriber selections associated with at least one IPG page, wherein the subscriber interactions associated with the at least one IPG page comprise a plurality of remote control key presses associated with navigation by a subscriber about the at least one IPG page," as taught in Applicants' invention of at least claim 1. Specifically, Applicants claim 1 positively recites:

> "A method for targeting programming according to subscriber preferences, comprising:
>
> propagating, via a forward application transport channel (FATC), a plurality of video streams representing respective pages of an interactive program guide (IPG), each IPG page depicting programming associated with a respective pair of channel groups and time slots;
>
> polling the plurality of terminals for trend data, the trend data being generated by respective applications executing at the plurality of terminals, the trend data of each terminal including preference indicative information, the preference indicative information including subscriber interactions with at least one IPG page and subscriber selections associated with at least one IPG page, wherein the subscriber interactions associated with the at least one IPG page comprise a plurality of remote control key presses associated with navigation by a subscriber about the at least one IPG page;
>
> receiving the trend data via a back channel;
>
> determining trend data associated with accumulated subscriber selections; and
>
> adapting at least one IPG page in response to said determined trend data (Emphasis added.)

As such, Applicants' invention of at least claim 1 teaches a method for targeting programming according to subscriber preferences. A plurality of video streams, which represent respective pages of an IPG, are propagated via a forward application transport channel. Terminals are polled for trend data including preference indicative information. The preference indicative information includes subscriber interactions with at least one IPG page and subscriber selections associated with the at least one IPG page. The subscriber interactions include a plurality of remote control key presses associated with navigation by a subscriber about the at least one IPG page. In other words, as claimed in Applicants' claim 1, preference indicative trend data is generated

based on both user interactions with at least one IPG page, which include remote control key presses by which the subscriber navigates the at least one IPG page, and selections by the subscriber associated with the at least one IPG page.

By contrast, Herz teaches updating of a customer profile (indicative of the preferences of that customer) using records of video programs actually watched by the customer. A record of a video program watched by a customer, as taught in Herz, is simply not an interaction with an IPG page or a selection associated with an IPG page, much less a plurality of remote control key presses associated with navigation by a subscriber about the at least one IPG page, as claimed in Applicants' claim 1. Herz is completely devoid of any teaching or suggestion of Applicants' limitation of "preference indicative information including subscriber interactions with at least one IPG page and subscriber selections associated with at least one IPG page, wherein the subscriber interactions associated with the at least one IPG page comprise a plurality of remote control key presses associated with navigation by a subscriber about the at least one IPG page," as claimed in Applicants' claim 1.

Furthermore, Alexander and LaJoie, alone or in combination, fail to bridge the substantial gap between Herz and Applicants' claim 1.

In general, Alexander teaches an Electronic Programming Guide (EPG) that provides an enhanced EPG including improved viewer interaction capabilities, improved viewer control of video recording of future-scheduled programming, improved features for EPG display and navigation, parental control of EPG display, and other EPG improvements. Alexander, however, is completely devoid of any teaching or suggestion of generating trend data including preference indicative information. Rather, the portions of Alexander cited by the Examiner merely describe various ways in which a user may navigate the enhanced EPG, as well as different ways in which information may be displayed within the enhanced EPG. In other words, Alexander teaches an enhanced EPG, including various combinations of key presses which may be used to navigate the enhanced EPG. The mere disclosure of different combinations of remote control key presses which may be used to navigate an enhanced EPG, as taught in Alexander, in no way teaches or even suggests that trend data is generated from such remote control key presses, as claimed in Applicants' claim 1. Therefore, Herz and

Alexander, alone or in combination, fail to teach or suggest Applicants' claim 1, as a whole.

Furthermore, LaJoie fails to bridge the substantial gap between Herz and LaJoie and Applicants' claim 1.

In general, LaLoie teaches an interactive programming guide (IPG) with default selection control. LaJoie describes remote control key presses and the information that is displayed in the interactive program guide in response to the key presses. For example, La Joie describes requesting additional information for a program that is highlighted on the interactive program guide by pressing the "information" key on the remote control, setting a timer in the interactive program guide to remind the user to watch and a selected program, and other remote control key presses and associated information that is set or displayed in the interactive program guide. (LaJoie, Col. 29, Line 58 – Col. 30, Line 63).

LaJoie, however, is devoid of any teaching or suggestion of generating trend data including preference indicative information. Rather, the portions of LaJoie cited by the Examiner merely describe various ways in which a user may navigate the described IPG, as well as different ways in which information may be displayed within the IPG. In other words, LaJoie describes various combinations of remote control key presses which may be used to navigate an IPG. The mere disclosure of different combinations of key presses which may be used to navigate an IPG, as taught in LaJoie, in no way teaches or even suggests that trend data is generated from such remote control key presses, as claimed in Applicants' claim 1. Thus, Herz, Alexander, and LaJoie, alone or in combination, fail to teach or suggest Applicants' claim 1, as a whole.

Furthermore, Applicants respectfully submit that the Examiner is reading Applicants' limitations of "subscriber interactions with at least one IPG page and subscriber selections associated with at least one IPG page, wherein the subscriber interactions associated with the at least one IPG page comprise a plurality of remote control key presses associated with navigation by a subscriber about the at least one IPG page" in a vacuum. Applicants' claim 1 clearly indicates that the subscriber interactions, including remote control key presses associated with navigation by a subscriber about the at least one IPG page, and subscriber selections are collected as

preference indicative trend data. The Examiner, however, merely cites references (Alexander and LaJoie) that describe how a user may use key presses on a remote control in order to navigate an IPG page. The teachings of Alexander and LaJoie describing different ways in which a user may navigate an IPG page in no way teaches or suggests generating preference indicative trend data including subscriber interactions and subscriber selections where the subscriber interactions include remote control key presses associated with navigation by a subscriber about the at least one IPG page, as claimed in Applicants' claim 1.

In the Office Action, in citing a motivation to combine Alexander and LaJoie with Herz, the Examiner specifically states that "[i]t would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the disclosures of Herz and Alexander to incorporate subscriber interactions with at least one IPG [page] as taught by LaJoie in order to allow a user to more easily operate the set-top terminal and navigate through the abundance of programs and services available in the cable television system." (Office Action, Pg. 4, Emphasis added). Thus, the Examiner clearly cites LaJoie to show how a user can navigate an IPG page. In other words, as stated hereinabove, the Examiner seems to be reading the limitations of Applicants' claim 1 in a vacuum. LaJoie is devoid of any teaching or suggestion of, and has absolutely nothing to do with, generating preference indicative trend data including subscriber interactions and subscriber selections, as claimed in Applicants' claim 1.

Moreover, with respect to the combination of Herz, Alexander, and LaJoie, Herz teaches collection of trend data indicative of programming actually watched by a subscriber in a system having a basic EPG, Alexander teaches an enhanced EPG including various combinations of key presses which may be used to navigate the enhanced EPG, and, similar to Alexander, La Joie teaches an IPG and remote control key presses which may be used to navigate the IPG. As such, assuming that Herz, Alexander, and LaJoie could be operably combined, the combination of Herz, Alexander, and LaJoie would merely teach a system having an enhanced EPG/IPG that is navigable using remote control key presses, and in which trend data indicative of programs actually watched by a subscriber is collected. Improving the basic EPG of Herz by incorporating the teachings of the enhanced EPG/IPG of Alexander/LaJoie,

including the teachings of Alexander and LaJoie with respect to various combinations of remote control key presses which may be used to navigate the enhanced EPG/IPG, still does not teach or even suggest a system in which performance indicative trend data is generated where the performance indicative trend data includes subscriber interactions and subscriber selections, as claimed in Applicants' claim 1.

Furthermore, there is nothing in Herz, Alexander, or LaJoie, either alone or in combination, which teaches or suggests generation of any trend data including remote control key presses associate with navigation by a subscriber about an EPG/IPG page. In other words, since there is no teaching or suggestion that interactions with or selections from the basic EPG of Herz are used to generate trend data, merely enhancing the EPG of Herz according to the EPG of Alexander and including EPG navigation features of LaJoie simply does not teach or suggest that interactions with or selections from the enhanced EPG of the Herz/Alexander/LaJoie combination are used to generate trend data.

Thus, the combination of Herz, Alexander, and LaJoie still fails to teach or suggest Applicants' limitations of the "preference indicative information including subscriber interactions with at least one IPG page and subscriber selections associated with at least one IPG page, wherein the subscriber interactions associated with the at least one IPG page comprise a plurality of remote control key presses associated with navigation by a subscriber about the at least one IPG page," as claimed in Applicants' claim 1.

As such, Herz, Alexander and LaJoie, alone or in combination, fail to teach or suggest Applicants' claim 1, as a whole.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). Herz, Alexander, and LaJoie, alone or in combination, fail to teach or suggest Applicants' claim 1, as a whole.

As such, Applicants submit that independent claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Furthermore, claims 4-12, 16, and 18 depend, either directly or indirectly, from independent claim 1 and recite additional limitations therefor. As such, and for at least the same reasons as discussed above, Applicants submit that the dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

Claims 2-3, 21-24

The Examiner has rejected claims 2-3 and 21-24 under 35 U.S.C. §103(a) as being unpatentable over Herz in view of Alexander, in view of LaJoie, and further in view of Hendricks et al. U.S. Patent No. 6,539,548 (hereinafter "Hendricks"). Applicants respectfully traverse the rejection.

Claims 2-3 and 21-24 depend, directly or indirectly, from independent claim 1. For at least the reasons discussed above in response to the Examiner's §102 rejection of independent claim 1, Applicants respectfully submit that Herz, Alexander, and LaJoie, alone or in combination, fail to teach or suggest Applicants' claim 1, as a whole.

Furthermore, Hendricks fails to bridge the substantial gap between Herz, Alexander, and LaJoie and Applicants' claim 1.

In general, Hendricks discloses an operations center for a television program packaging and delivery system. The operations center organizes and packages television programming and program information for delivery to and from consumer homes. As taught in Hendricks, demographic information is generated at the operations center and stored within a database associated with the operations center. That is, demographic data is not provided by the set top terminals; rather, it is determined at the operations center by, for example, a marketing information interface (MII) 402. The MII cooperates with the other operations center functions to derive demographic information and store it therein.

Hendricks, however, fails to teach or suggest at least the limitation of "preference indicative information including subscriber interactions with at least one IPG page and subscriber selections associated with at least one IPG page, wherein the subscriber

interactions associated with the at least one IPG page comprise a plurality of remote control key presses associated with navigation by a subscriber about the at least one IPG page," as claimed in Applicants' claim 1.

Rather, Hendricks merely teaches that demographic data is stored in the Hendricks operations center. The demographics data of Hendricks, however, is not trend data, much less trend data including preference indicative information such as subscriber interactions with and selections from at least one IPG page, much less remote control key presses associated with navigation by a subscriber about the at least one IPG page, as claimed in Applicants' claim 1.

As such, Herz, Alexander, LaJoie, and Hendriks, alone or in combination, fail to teach or suggest Applicants' claim 1, as a whole.

As such, Applicants submit that claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Furthermore, claims 2-3 and 21-24 depend, directly or indirectly, from independent claim 1 and recite additional limitations thereof. As such, and for at least the same reasons as discussed above, Applicants submit that these dependent claims also fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder.

Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

CONCLUSION

Applicants believe all the claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the issuance of an adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Michael Bentley at (732) 383-1434 or Eamon J. Wall, Esq. at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

2/6/07

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